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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,266	07/19/2002	Natalie Bryant	FBRIC19.001APC	2913
20995	7590	07/09/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			ASHBURN, STEVEN L	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			3714	

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/070,266

Applicant(s)

BRYANT ET AL.

Examiner

Steven Ashburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 4, 6, 7, 9-13, 15, 16, 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Feola, U.S. 6,149,156 (Nov. 21, 2000).**

Feola discloses a card game allowing a player to choose a predetermined number of cards as chosen cards for each round he or she chooses to play, and reveals the card values for a portion of the chosen cards based on the rules. *See abstract*. It forms a hand for each of the chosen rounds from the card values of a portion of the chosen cards based on the rules and compares the hand to a set of winning hands for each round. *See id*. The particular features of the listed claims are discussed below.

Claim 1. Feola discloses a controller for controlling a plurality of positions for displaying a combination of symbols, a controller including a processor for processing data and displaying data on the display; and a selector operable by a player of the machine for enabling the player to select at least one feature which can be added to the base game played on the machine wherein an additional credit is staked by the player in order to be eligible for the feature. *See fig. 7-10; col. 2:53-59; 3:18-20; 6:54-7:15; 8:50-55*.

Claim 4. Feola discloses a plurality of selectors operable by the player to select at least one feature before making the base bet. *See col. 8:50-55*.

Claim 6. Feola discloses that each feature is triggered independently of the base game. *See col. 1:61-67.*

Claim 7. Feola discloses that the selector allows a player to tailor the game to the player's requirements. *See col. 7:4-15.*

Claim 9. Feola discloses a plurality of games wherein the selector enables the player to select on of the plurality of games as the base games. *See col.4:11-27, 7:4-15.*

Claim 10. Feola discloses a selector being a dedicated buttons on the keypad of the controller. *See fig. 10; col. 8:50-55.*

Claim 11. Feola discloses a selector being touch sensors on a touch screen display. *See id.*

Claim 12. Feola discloses a controller for controlling a plurality of positions for displaying a combination of symbols, a controller including a processor for processing data and displaying data on the display; and a selector operable by a player of the machine for enabling the player to select at least one feature which can be added to the base game played on the machine wherein an additional credit is staked by the player in order to be eligible for the feature being a fixed amount multiplied by a bet wagered per draw.. *See fig. 7-10; col. 2:53-59; 3:18-20; 6:54-7:15; 8:50-55.* Feola allows a player to wager a fixed amount for each additional game a player elects to play. The claim does not require that the fixed amount be predetermined. Nor does it require a number of draws in each game. Thus, Feola meets the limitations of the claim.

Claim 13. Feola discloses a plurality of selectors operable by the player to select at least one feature before making the base bet. *See col. 8:50-55.*

Claim 15. Feola discloses that each feature is triggered independently of the base game. *See col. 1:61-67.*

Claim 16. Feola discloses that the selector allows a player to select a range of features tailor the game to the player's requirements. *See col. 7:4-15.*

Claim 18. Feola discloses a plurality of games wherein the selector enables the player to select on of the plurality of games as the base game. *See col.4:11-27, 7:4-15.*

Claim 19. Feola discloses a selector being a dedicated buttons on the keypad of the controller. *See fig. 10; col. 8:50-55.*

Claim 20. Feola discloses a selector being touch sensors on a touch screen display. *See id.*

Claim 21. Feola discloses a controller for controlling a plurality of positions for displaying a combination of symbols, a controller including a processor for processing data and displaying data on the display; and a plurality of selectors operable by a player enabling the player, prior to making a base bet, for selecting a range of features to be added to a base game played on the machine to enable the player to tailor the game to the player's requirements. *See fig. 7-10; col. 2:53-59; 3:18-20; 6:54-7:15; 8:50-55.*

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feola in view of Piechowiak, U.S. 5,807,172 (Sep. 15, 1998) and Guttaman et al., U.S. 5,354,069 (Oct. 11, 1994).**

Claim 2. Feola does not disclose an additional credit being staked by the player being a multiple of the base bet wagered by the player. Regardless, as discussed below, this feature would have been obvious to an artisan at the time of the invention in view of the prior art

Piechowiak discloses a slot machine in which a player must insert an additional coin to activate each payline and thereby receive additional opportunities to receive a winning outcome in the game. *See fig. 7; col. 3:10-36*. Likewise, Guttman discloses a lottery game in which in which a player must pay an additional amount for each entry thereby receive an additional opportunity to receive a winning outcome in the game. Thus is it well known in the art of gaming to require an additional credit being staked by the player being a multiple of the base bet wagered by the player.

In view of Piechowiak and Guttman, it would have been obvious to one of ordinary skill in the art to modify Feola, wherein a places a stake to receive the opportunity to play an additional game feature, to add the feature of an additional credit being staked by the player being a multiple of the base bet wagered by the player. As is within the ordinary knowledge of an artisan, the features would allow an operator to receive additional revenue to cover payouts for each of a player's winning opportunities in a game.

Claim 3: Piechowiak discloses using different multiples of the base bet to purchase different features. *See fig. 7; col. 3:10-36*. For example, a different multiple is bet by players in games having different number of paylines. Notably, it is within the ordinary knowledge of an artisan to charge players patrons greater amounts of money for features having greater potential value. For example, an artisan might require a larger bet be placed by a player for games having a greater potential payoff due to a larger number of paylines (as in Piechowiak), a more generous payable or a bonus payout. Likewise, an artisan might require a larger bet be placed by a player for games that take longer to play or provide a secondary game feature.

**Claims 5, 8, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feola in view of Carter, U.S. 6,582,305 B1 (Jun. 24, 2003) and Yoseloff, U.S. 6,312,334 B1 (Nov. 6, 2001).**

Feola does not teach having no guarantee that a feature will eventuate. Regardless, as discussed below, this feature would have been obvious to an artisan at the time of the invention in view of the prior art.

It is generally known in the gaming arts to require players to bet an additional amount to become eligible for a secondary game feature which may not eventuate. For example, Carter discloses a bingo-type game in which players pay a surcharge to become eligible for a bonus game played in conjunction with a base game. *See col. 1:65-2:20*. Similarly, Yoseloff discloses an analogous gaming machine in which the players may participate in multiple, independent game segments. *See abstract*. A player may not advance to the subsequent segment unless he satisfies a predetermined condition in the current segment. *See fig. 1, col. 2:62-4:19*. There is no guarantee that feature will eventuate. Thus, it is known in the art to for players to bet money for game features having no guarantee that the feature will eventuate.

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In view of Carter and Yoseloff, it would have been obvious to an artisan at the time of the invention to modify Feola, wherein a player posts stakes for a plurality of game features in advance of the game, to add the feature of having no guarantee that a feature will eventuate. As is taught by Carter and Yoseloff, the modification would enhance the attraction of the gaming device by increasing players' anticipation of receiving an outcome required to qualify for the additional winning opportunity for which they have become eligible by his payment.

Claims 8 and 17: Yoseloff discloses certain features being "no-cost" features while other features require posting of a credit by the player. *See col. 1:65-2:34*. In particular, Yoseloff describes games having secondary games that occur at no cost to the player.

***Prior Art, Not Relied On***

The following prior art of record is not relied upon but is considered pertinent to applicant's disclosure:

U.S. 4,856,787 discloses a gaming device enabling the player the option of participating in several different games.

U.S. 5,951,397 discloses a gaming device enabling the player the option of participating in several different games.

U.S. 5,664,999 discloses a gaming device enabling the player to participate in supplemental game different games.

U.S. 4,756,531 discloses a gaming device providing players with multiples ways to win.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, Primary Examiner's Jessica Harrison can be reached on 703-308-2217. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

s.a.



MARK SAGER  
PRIMARY EXAMINER